IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.355 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

M/s.Damodar Bulk Carriers Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND
J.P.DEVADHAR, JJ.

DATED : 21ST MARCH, 2005.

P.C. :-

1. Heard the learned counsel for the applicant. The Tribunal has referred the question for the opinion of this Court reading as under :-

> Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in upholding the decision of the CIT(A) holding that salary and allowances paid to the floating staff in respect of the period spent outside India cannot be taken into account for the purpose of computing the disallowance u/s.40A(5) of the Income Tax Act ?

2. The aforesaid question has already been answered by the Division Bench of this Court in the case **C.I.T. V/s. Indo Oceanic Shipping Co. Ltd. [(2001) 247 I.T.R. 247 (Bom.)** against the revenue and in favour of the assessee. Accordingly, for the reasons recorded in that Judgment the above question is answered in the affirmative i.e. in favour of the assessee and against the revenue. Accordingly, reference stands disposed of with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)